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DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Linton :
Application No. 10/659,997 :
Filed: September 11, 2003 :
Attorney Docket No. CVAC-001/00US :
313579-2010 :
For: METHOD AND APPARATUS FOR
CYCLIC VARIATIONS IN ALTITUDE
CONDITIONING

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action, mailed March 9, 2010, which set an extendable three month period for reply. Applicant submitted a petition for a three month extension of time and required fee and an improper Request for Continued Examination (RCE) on September 9, 2010. Accordingly, this application became abandoned on September 10, 2010. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted a RCE, the required \$405.00 fee, and a submission in reply to the March 9, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 9, 2010 final Office action, and the \$810.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

After the mailing of this decision the application will be forwarded to Technology Center AU 3715 for consideration of the RCE filed on October 7, 2010.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
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Office of Petitions